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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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Federal Communications Commission
Office of Secretary

In the Matter of)
)
Implementation of the) CC Docket No. 96-150
Telecommunications Act of 1996:)
Accounting Safeguards Under the)
Telecommunications Act of 1996)

**U S WEST, INC. OPPOSITION
TO PETITIONS FOR RECONSIDERATION**

U S WEST, Inc. ("U S WEST") hereby opposes several of the petitions for reconsideration filed in this docket, and also takes this opportunity to express its support for certain other petitions.¹

**I. THE COMMISSION SHOULD NOT ALTER THE SECTION 272
AFFILIATE EXEMPTION FROM THE 50% RULE**

MCI asks the Federal Communications Commission ("Commission") to reconsider exempting from the "greater than 50% rule" sales of products or services by Bell Operating Companies ("BOCs") to their Section 272 affiliates.² U S WEST strongly opposes this request. The Commission correctly found that the 50% threshold is unnecessary because Section 272 requires the BOCs to charge their

¹ See, e.g., MCI Telecommunications Corporation ("MCI"), Cox Communications, Inc. ("Cox"), the American Public Communications Council ("APCC"), Ameritech, Cincinnati Bell Telephone Company ("CBT"), The Southern New England Telephone Company ("SNET") and SBC Communications Inc. ("SBC").

Section 272 affiliates the same rates as unaffiliated third parties for facilities, service, and information.³

MCI claims that “[t]here is . . . no evidence in the record to support a conclusion that the prices for products and services transferred from the BOC to its Section 272 affiliates will represent true market value.”⁴ However, BOCs will be offering to their Section 272 affiliates the very same products and services that will be demanded by unaffiliated third parties, namely telephony network services. Therefore, BOCs must ensure that these products and services are priced at a true market price. Offering the products to an affiliate at unreasonably low prices would be irrational because nonaffiliates could purchase the same products at the same low prices, and cost recovery might not be achieved. Similarly, it would make no sense for the BOCs to charge their affiliates unreasonably high prices because this could cause any number of negative results, including (1) deflated revenues and net income for the Section 272 affiliates; (2) bypass of the BOC network by potential nonaffiliated customers; and (3) unfavorable sharing results caused by the inflated regulated revenues. BOCs clearly have proper economic incentives to charge their Section 272 affiliates market prices. For all these reasons, the exemption from the 50% rule for Section 272 affiliates should not be altered.

² MCI at 2.

³ See In the Matter of Implementation of the Telecommunications Act of 1996: Accounting Safeguards Under the Telecommunications Act of 1996, Report and Order, 11 FCC Rcd. 17539, at ¶ 137 (1996) (“Order”).

⁴ MCI at 2.

II. COX MISREPRESENTS U S WEST'S TREATMENT OF COMMON COSTS ASSOCIATED WITH ITS VIDEO DIALTONE OPERATIONS IN OMAHA, AND FAILS AGAIN TO MEET THE HEAVY BURDEN OF JUSTIFYING THE NEED FOR ADDITIONAL DETAIL

Cox asserts in its Petition for Reconsideration that “the Commission has apparently let U S West allocate all of the common costs associated with its video dialtone ‘trial’ – a figure approaching \$35 million – to telephone ratepayers.”⁵ Nothing could be further from the truth. In fact, U S WEST has removed common costs *in their entirety* from regulated results prior to subjecting those results to Part 36 and Part 69 separations processing. This is in addition to the removal, via Part 64 processing, of all direct, attributable and allocated video-only costs. This has the effect of removing some telephony as well as all video costs from those borne by telephone ratepayers.

Cox further argues that the Part 64 rules do not provide interested parties with the data necessary to detect cross-subsidization, and claims a need for “further detail [in order] to identify service-specific costs and match them to regulated costs.”⁶ As noted in the Order, the Commission advised parties in the NPRM that “any commenter urging us to adopt more detailed accounting safeguards than those in our current rules or those specifically mandated by the Act bears a heavy burden in demonstrating the necessity to adopt such safeguards.”⁷ Cox still has not met

⁵ Cox at 7 n.16 (citation omitted).

⁶ Id. at 7.

⁷ Order ¶ 27. *See also In the Matter of Implementation of the Telecommunications Act of 1996: Accounting Safeguards Under the Telecommunications Act of 1996, Notice of Proposed Rulemaking*, 11 FCC Rcd. 9054, 9060-61 ¶ 12 (1996) (“NPRM”).

that “heavy burden” because it gave no justification for requiring additional detail, nor did it even specify what detail it supposedly needs. In any event, the Commission has already declared that “[i]t is not our purpose, nor should it be our purpose, to seek to attribute costs to particular nonregulated activities for purposes of establishing a relationship between cost and price.”⁸ The Commission has already determined that the Part 64 rules are sufficiently flexible and expansive to cover nonregulated activities that have developed since adoption of the original rules. Cox’s petition should be rejected.

III. APCC’S REQUEST FOR RECONSIDERATION OF THE RULES REGARDING CLASSIFICATION OF PAYPHONE ASSETS IS IMPROPERLY RAISED IN THIS PROCEEDING

APCC asks the Commission to reconsider its previous decision in another docket regarding the deregulation of payphone assets.⁹ Specifically, APCC asks the Commission to require that payphone assets be moved from the regulated set of books to a separate set of nonregulated books, and that the affiliate transaction rules be applied to this transfer. APCC also requests the Commission require an exogenous cost change to address the transfer of the assets pursuant to 47 C.F.R. Section 61.45(d)(vi). These arguments have been raised before, and the Commission has repeatedly rejected them. APCC is simply taking multiple bites

⁸ In the Matter of Separation of costs of regulated telephone service from costs of nonregulated activities, 2 FCC Rcd. 1298, 1304 ¶ 40 (1987).

⁹ See In the Matter of Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996, CC Docket No. 96-128, Report and Order, FCC 96-388, rel. Sep. 20, 1996.

out of the same apple, and is wasting the Commission's time and resources.

Accordingly, APCC's petition should be rejected as inappropriate re-litigation of issues that have already been debated and decided in other proceedings.

**IV. THE COMMISSION SHOULD PERMIT THE USE OF FULLY
DISTRIBUTED COST IN VALUING SERVICES PROVIDED BY A
CARRIER TO AN AFFILIATE**

Ameritech, CBT and SNET each ask the Commission to extend to the parent holding company or the regulated carrier itself the same fully distributed cost exception that applies to a service company that provides centralized administrative services solely to the corporate family.¹⁰ U S WEST supports these petitions. Many local exchange carriers ("LECs") do not have an affiliated service company that exists solely to provide centralized administrative services to the corporate family. Instead, such functions (*e.g.*, Human Resources, Legal, Information Technology, Accounting, Finance) are, in some instances, provided through the LEC's regulated carrier (Telco) and parent holding company. Such services are provided (*i.e.* sold) to internal departments of the Telco and unregulated affiliates of the holding company. In this case, the Telco and parent holding company function in effect as a service company.

Ameritech, SNET and CBT contend that the Commission should provide for the use of fully distributed cost as the valuation standard when the carrier provides

¹⁰ Ameritech at 1-5; CBT at 1-5; SNET at 1-5.

services to an affiliate.”¹¹ U S WEST agrees. Moving functions to a new separate affiliate would increase fully distributed cost, and performing fair market valuations for services provided only to internal affiliates would also increase cost. The Commission should not be in the business of increasing carriers’ costs without a strong public interest justification. Here there is none. In fact, providing the services to other affiliates lowers the cost to the Telco by spreading fixed costs over more users of the service. U S WEST strongly endorses the proposed rule revision attached to Ameritech’s petition, and urges the Commission to adopt this logical and reasonable extension of its rules.

V. THE SECTION 274(f) REPORTING REQUIREMENT SHOULD BE STREAMLINED AND SIMPLIFIED

SBC asks the Commission to reconsider the Section 274(f) reporting requirement as applied to “separated affiliates” not subject to the Securities and Exchange Commission (“SEC”) reporting requirement. Specifically, SBC argues that the Commission should accept unaudited financial statements, and should adopt a simplified report format that contains a substantial part, but not all, of the information in the SEC Form 10-K.¹² U S WEST agrees with the SBC proposals, and endorses Exhibit A to SBC’s petition. The Commission should streamline and simplify the Section 274(f) reporting requirement so that parties need disclose only information that is truly useful to the Commission.

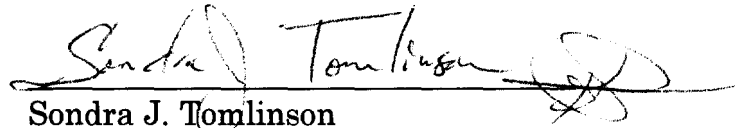
¹¹ See, e.g., Ameritech at 2-3.

¹² SBC at 16-18.

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U S WEST, INC.

By:

A handwritten signature in cursive script, appearing to read "Sondra J. Tomlinson", followed by a large, stylized flourish or initial.

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April 2, 1997

CERTIFICATE OF SERVICE

I, Kelseau Powe, Jr., do hereby certify that on this 2nd day of April, 1997, I have caused a copy of the foregoing **U S WEST, INC. OPPOSITION TO PETITIONS FOR RECONSIDERATION** to be served via first-class United States Mail, postage prepaid, upon the persons listed on the attached service list.



Kelseau Powe, Jr.

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